

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY HERRERA,
Plaintiff,

v.

LYNCH et al.,
Defendants.

No. 2:24-cv-01660 DJC CSK P

ORDER

I. INTRODUCTION

Plaintiff is a state prisoner, proceeding without counsel with a civil rights action pursuant to 42 U.S.C. § 1983. Pending before the Court are plaintiff's unopposed motion to compel and unopposed motion to compel the California Department of Corrections and Rehabilitation ("CDCR") to make copies. (ECF Nos. 52, 56.) For the following reason, plaintiff's motions are denied.

II. BACKGROUND

Pursuant to the Discovery and Scheduling Order filed May 5, 2025, the discovery deadline was August 29, 2025 and all requests for discovery were to be served not later than sixty days prior to that date, i.e. June 30, 2025. (ECF No. 44 at 5.) Responses to discovery requests were due forty-five days after the request was served. (*Id.*) On August 25, 2025, plaintiff filed a motion for a sixty-day extension of time to serve defendants with responses to defendants'

1 request for admissions and request for production of documents. (ECF No. 46.) On September
2 11, 2025, this Court granted plaintiff's motion for extension of time. (ECF No. 50.) This Court
3 ordered plaintiff to serve defendants with responses to the request for admissions and request for
4 production of documents on or before October 25, 2025. (Id.) On October 9, 2025, this Court
5 granted defendants' motion to compel plaintiff's further deposition and reopened discovery up to
6 and including November 24, 2025 for the limited purpose of defendants completing plaintiff's
7 deposition. (ECF No. 51.) On October 31, 2025, this Court granted defendants' motion to extend
8 the deadline to complete plaintiff's deposition to December 8, 2025. (ECF No. 55.)

9 **III. MOTION TO COMPEL**

10 This Court finds that plaintiff's motion to compel was filed on October 8, 2025, i.e., the
11 date plaintiff apparently signed the motion. (ECF No. 52 at 1.) See Houston v. Lack, 487 U.S.
12 266, 276 (1988) (pro se prisoner filing is deemed filed when delivered to prison authorities for
13 mailing); Butler v. Long, 752 F.3d 1177, 1178 n. 1 (9th Cir. 2014) ("We assume that [petitioner]
14 turned his petition over to prison authorities on the same day he signed it and apply the mailbox
15 rule."). For the following reasons, plaintiff's motion to compel is denied as untimely.

16 Plaintiff appears to move to compel defendants to respond to a request for production of
17 documents signed by plaintiff on June 30, 2025 and mailed to defendants on July 8, 2025. (Id. at
18 1-5.) Plaintiff appears to claim that he did not receive a response to the request for production of
19 documents. (Id.) Plaintiff attaches to the motion to compel a copy of the envelope in which he
20 apparently mailed the request for production of documents, signed by prison officials on July 8,
21 2025. (Id. at 5.) In the motion to compel, plaintiff claims that he has had issues with his mail
22 coming up missing or not being fully processed when mailed to the sender. (Id. at 1-2.) Plaintiff
23 claims that when he addressed an envelope to the Attorney General's Office, the envelope was
24 withheld and not sent back to plaintiff for a while. (Id. at 2.) Plaintiff claims that his legal mail
25 has been withheld from him for weeks and months. (Id.)

26 Assuming plaintiff delivered his request for production of documents to prison officials
27 for mailing on June 30, 2025, plaintiff's request for production of documents was timely served
28 pursuant to the mailbox rule. Defendants had forty-five days from June 30, 2025 to serve

1 plaintiff with their response to the request for production of documents, i.e., until August 14,
2 2025. As discussed above, the deadline to file a motion to compel was August 29, 2025.
3 Plaintiff's motion to compel, filed October 8, 2025, is not timely. In the pending motion, plaintiff
4 fails to address why he did not file a timely motion to compel regarding the request for production
5 of documents. If plaintiff claims that he attempted to mail a timely motion to compel but prison
6 officials failed to mail the timely motion to compel, plaintiff does not explain why he waited over
7 one month after the discovery deadline to file the pending motion. If plaintiff claims that prison
8 officials did not mail the request for production of documents to defendants, plaintiff should have
9 brought this to the Court's attention before the discovery deadline. If plaintiff claims that prison
10 officials failed to deliver to plaintiff defendants' response to the request for production of
11 documents, plaintiff also should have brought this to the Court's attention before the discovery
12 deadline. For these reasons, plaintiff's motion to compel is denied as untimely.

13 **IV. MOTION TO COMPEL CDCR TO MAKE COPIES**

14 As discussed above, on September 11, 2025, this Court ordered plaintiff to serve
15 defendants with responses to request for admissions and request for production of documents on
16 or before October 25, 2025. (ECF No. 50.) In the pending motion, filed October 19, 2025
17 pursuant to the mailbox rule, plaintiff states that on or around October 8, 2025, plaintiff's
18 counselor informed plaintiff that her supervisor would not copy the 701 pages of documents
19 requested by plaintiff which respond to defendants' request for production of documents. (ECF
20 No. 56 at 4.) The supervisor stated that plaintiff's account showed insufficient funds to pay for
21 the copies. (Id.) Plaintiff requests that the Court order prison officials to make copies for
22 plaintiff when he requests them for discovery reasons and for himself. (Id.)

23 Defendants did not respond to plaintiff's motion to compel CDCR to make documents and
24 nor did defendants file a motion to compel plaintiff to respond to the request for production of
25 documents. Accordingly, this Court orders that if defendants did not receive plaintiff's responses
26 to the request for production of documents, defendants shall contact prison officials at California
27 State Prison-Lancaster ("CSP-Lac") where plaintiff is incarcerated to determine plaintiff's ability
28 to respond to defendants' request for production of documents. In the alternative, defendants may

1 arrange for plaintiff to bring his documents that respond to the request for production of
2 documents to plaintiff's deposition and arrange for the documents to be copied at the deposition.
3 For these reasons, plaintiff's motion to compel CDCR to make copies is denied as unnecessary.

4 To the extent plaintiff also seeks an order directing prison officials to make copies when
5 plaintiff requests copies, this request is denied. Plaintiff does not demonstrate that he is currently
6 unable to litigate this action based on the failure of prison officials to make copies of documents.
7 In the pending motion, plaintiff also requests that CDCR be held accountable for tampering with
8 plaintiff's mail. (ECF No. 56 at 1.) Plaintiff claims that his mail is being destroyed, withheld or
9 delayed. (Id.) Plaintiff fails to demonstrate that prison officials tampered with any mail related to
10 the instant action. For this reason, plaintiff's request for an order addressing alleged mail
11 tampering is denied. Plaintiff also requests that he be allowed to amend his complaint in another
12 action he is proceeding with, case no. 1:25-cv-0055 GSA. (Id. at 2.) Plaintiff's request to amend
13 his complaint in case no. 1:25-cv-055 GSA should be raised in that action and not the instant
14 action. Finally, in the pending motion plaintiff claims that prison officials denied plaintiff's wife
15 her family visit with plaintiff. (Id.) This action proceeds against defendants located at California
16 State Prison-Sacramento ("CSP-Sac"). (ECF No. 20.) Plaintiff's claim regarding his wife's
17 alleged denial of family visits concerns events at CSP-Lac. This Court is unable to issue orders
18 against prison officials at CSP-Lac because they are not parties to the pending action. See Zenith
19 Radio Corp. v. Hazeltine Research, Inc., 395 U.S. 100, 112 (1969). Accordingly, plaintiff's
20 apparent request for an order addressing family visits at CSP-Lac is denied.

21 Accordingly, IT IS HEREBY ORDERED that:

- 22 1. Plaintiff's motion to compel (ECF No. 52) is denied; and
23 2. Plaintiff's motion to compel CDCR to make copies (ECF No. 56) is denied.

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25 Dated: November 24, 2025

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CHI SOO KIM
UNITED STATES MAGISTRATE JUDGE